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Supreme Court Upsets Two Union Station Convictions

The state Supreme Court has reversed the convictions of two young men arrested for passing out leaflets in Los Angeles Union Station, declaring the section of the city ordinance under which they were convicted unconstitutional.

In a 5-2 decision written by Chief Justice Roger Traynor, the court held that the ordinance was overbroad, and infringed upon rights protected by the First Amendment.

Frederick A. Hoffman and Clay Carson were among 15 people passing out leaflets on Sep. 5, 1966, calling attention to the plight of "The Fort Hood Three," a trio of soldiers who had refused to fight in Vietnam.

Asked to leave Union Station by a private security guard, the 15 refused. Eight were arrested, charged with violating a city ordinance which made it a crime to remain in the train terminal longer than was necessary to conduct business with a common carrier.

Volunteer Attorney

Defended by ACLU volunteer attorney Michael Hannon, six of the eight were found not guilty. The Appellate Department of the Superior Court sustained the two convictions on appeal.

The high court's Dec. 11 opinion noted regulation of "First Amendment activities in streets and parks must be supported by a valid municipal interest that cannot be protected by different or more narrow means. Such activities can be regulated only to the extent necessary to prevent interference with the municipality's interest in protecting the public health, safety, or order or in assuring the efficient and orderly use of streets and parks for their primary purposes.

Primary Uses

"Similarly, the primary uses of railway stations can be amply protected by ordinances prohibiting activities that interfere with those uses.

"In neither case can First Amendment activities be prohibited solely because the property involved is not maintained primarily as a forum for such activities," the opinion held.

At no time were Hoffman or Carson disorderly. Their arrest came only after the security guard, apparently angered by the content of the leaflets themselves, promised to "get those Communists."

The appeal to the state Supreme Court was argued on Oct. 11 by A. L. Wirin and Fred Okrand as counsel for the Roger Baldwin Foundation of the ACLU. Hannon and ACLU staff counsel Laurence R. Sperber joined in the brief.

Atheist Qualified For U.S. Citizenship

Mrs. Ella Nomland will become a United States citizen, thanks to ACLU counsel A. L. Wirin and Fred Okrand.

U.S. District Court Judge Warren J. Ferguson ordered the Department of Immigration and Naturalization to certify Mrs. Nomland, a pacifist and atheist, for naturalization as a citizen of the United States.

Research Associate

The department had earlier refused, claiming that Mrs. Nomland, holder of a doctorate in psychology and a research associate at Occidental College, did not qualify.

As a self-described pacifist and atheist, Mrs. Nomland could not take the oath of citizenship which requires the candidate to bear arms unless he can claim exemption because of religious conviction, the department argued.

Wirin and Okrand, counsel for the Roger Baldwin Foundation of the ACLU, and Laurence R. Sperber, affiliate counsel, challenged the department's ruling on two grounds:

Within Doctrine

1) Though an atheist, Mrs. Nomland's beliefs fell within the doctrine of the Supreme Court's *Seeger* decision. In that opinion, the high court ruled that the test in conscientious objection cases could not be based solely on the adherence to the code of an organized religion.

Instead, the court ruled that the test is "whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God by one who clearly qualifies for the exemption."

Under such an interpretation, Mrs. Nomland qualified, the attorneys argued. The sincerity of her pacifist, essentially humanistic views was unquestioned by the department.

2) If Mrs. Nomland's humanistic basis for her pacifism was not "religious," in the interpretation given that word by the *Seeger* decision, then denial of citizenship because she could not conscientiously take the oath made that oath an unconstitutional religious qualification for citizenship.

Judge Ferguson's bench order was not as broad as that hoped for by Wirin and Okrand. He ruled only that Mrs. Nomland's philosophical and moral views fell within the meaning of the *Seeger* decision, and she therefore qualified.

Avowed Beliefs

Her refusal to bear arms was not at issue, but only whether that refusal could be based upon her avowedly atheistic beliefs. Reviewing her opinions, he held her to be "religious" despite her assertion that she was not.

The case was believed by both the government and ACLU counsel to have far-reaching implications. Mrs. Nomland's refusal to bear arms was largely symbolic since the government has never drafted women, and at age 53 she is some years past even the age at which she might volunteer for the four women's military auxiliaries.

A broadening of the *Seeger* decision to cover atheists would have extended the coverage of conscientious objectors to the draft. By interpreting Mrs. Nomland's humanistic beliefs to fall within the *Seeger* doctrine, Judge Ferguson avoided extending that decision to atheists.

Negative Loyalty Oath Struck Down

The state Supreme Court has invalidated California's 15-year old loyalty oath, ruling in an ACLU-sponsored case that the negative oath infringed upon the First Amendment's guarantee of freedom of association.

The 6-1 decision written by Justice Raymond E. Peters came in the taxpayer's suit brought by the Southern California ACLU on behalf of Robert Vogel, a member of the affiliate's Committee of Sponsors.

Levering Act

The decision climaxed a 17-year battle against imposition of a disclaimer oath on public employees. The ACLU opposed the so-called Regents Oath when it was proposed in 1950, and the subsequent adoption by the voters of the Levering Act which embodied the negative oath in the state Constitution. Since then an estimated 1 million Californians have taken the negative oath.

The ACLU did not challenge the positive oath of allegiance.

Though the state Supreme Court's Dec. 21 decision was narrowly drawn, according to A. L. Wirin, chief counsel for the Roger Baldwin Foundation of the ACLU, "It furnishes the basis for a court challenge to the many provisions in state codes and local ordinances which require differently worded loyalty oaths, or permit unrestrained inquiry into political opinion and association."

Local Agencies

Wirin promised future court actions against oath provisions in the California Government Code, the state Education Code, and the ordinances of many local government agencies including the Los Angeles Board of Education.

The majority opinion held that "when the government seeks to require a limitation of constitutional rights as a condition of public employment, it bears the heavy burden of demonstrating the practical necessity for the limitation.

"The utility of imposing the conditions must manifestly outweigh the impairment of constitutional rights," the opinion continued.

No such showing, that the negative oath prevents subversion of state government, has ever been made. (See related story, page 6.)

Judicial Precedents

The *Vogel* decision, reversing the state court's 1952 approval of the negative oath, was based entirely on recent U.S. Supreme Court decisions invalidating oaths in New York and Arizona.

The majority specifically declined to rule on contentions which would have declared the oath unconstitutionally vague, a prior restraint, a violation of the Fifth Amendment's privilege against self-incrimination.

The county counsel is not expected to appeal.

With the *Vogel* decision, California joins Arizona, New York, Maryland, Florida, Idaho and Washington as states whose negative oaths have been struck down by the courts.

Narrow Ruling

The narrow ruling, however, leaves room for the state Legislature to attempt to redraft an oath requirement to conform to judicial requirements. ACLU Legislative Advocate Coleman Blease reports that at least one such attempt to resurrect the oath will be introduced by Assemblyman James Hayes (R.—Long Beach).

For ACLU Executive Director Eason Monroe, the high court's ruling "comes late but is especially gratifying." Monroe was fired from the faculty of San Francisco State College in November, 1950, when he refused to sign the negative oath.

He spent a year and one-half as the leader of the Federation for Repeal of the Levering Act before taking the position of executive director of the Southern California affiliate in July, 1952.

Producer Director Robert Wise, left, talks with news analyst David Schoenbrun, featured speaker at the annual Bill of Rights Banquet Dec. 2. Wise was honored by 850 dinner guests, resolutions from the Los Angeles City Council and both houses of the state legislature, and speeches as "Liberty's Man of the Year." Partially hidden behind Wise is Richard Widmark who spoke at the dinner; Mrs. Richard Crenna; and the evening's master of ceremonies, Richard Crenna. The dinner program and sustainer pledges raised more than $40,000 for the ACLU. (Photo by Ron Patterson, courtesy Mike Kaplan)

Jazz On A Sunday Afternoon

Six of the nation's most active jazz instrumentalists — all members of the ACLU of Southern California—volunteered to perform "Jazz on a Sunday Afternoon" for the Westside Chapter at the home of Mrs. Betty Marvin Dec. 10. Red Mitchell, bass; Buddy Collette, shown here with the sax; Victor Feldman, bending over the keyboard; Plas Johnson, flute tucked under his arm; and Ron Goodwin, drums, entertained while 150 members and guests sampled cheese, wine and various delicacies. Speaking for the six musicians, Mitchell noted that the informal atmosphere and relaxed audience had provided a special encouragement to their performance. The unusual afternoon concert raised more than $450 to support the Westside Police Malpractice Office. Meanwhile chapter publicity chairman James Biltchik (who took this photo) added four new members to his personal recruiting total of 32 run up in the last six months.

Four More Peace March Cases End

Four more of the criminal cases arising from arrests made at Century City on June 23 were concluded during December, and a fifth ended with a hung jury, necessitating a retrial.

Two of the defendants were completely exonerated, one was cleared of one charge by a jury which was unable to reach a decision in two others, and two arrestees pled guilty to misdemeanor charges.

William J. Martin was acquitted of disturbing the peace after a two-week trial. The jury was unable to reach a verdict on charges that Martin also interfered with a police officer and failed to disperse when ordered to do so, volunteer counsel Henry Waxman reported.

A retrial date has yet to be set.

Allen Ross Stevens, charged with battery on a police officer, was dismissed in juvenile court when the prosecution failed to locate the arresting officer. Paul Posner was volunteer counsel for Stevens.

Two defendants, Robert Wesolowsky and Miss Diane Hirsch, copped pleas in exchange for the dismissal of other charges. Wesolowsky pled guilty to blocking a driveway and was fined $100, Miss Hirsch pled *nolo contendre* to disturbing the peace.

Kent Ten Brink volunteered as Wesolowsky's defense counsel; Miss Hirsch was represented by cooperating attorney Robert White.

A municipal court jury found Fred Dulfer not guilty on resisting, failure to disperse, and disturbing the peace after a three-day trial. Dulfer, who turned down prosecution-offered "deals" to plead guilty to lesser charges in exchange for dismissal of more serious counts, was defended by Deputy Public Defender Mitchell Litt.

Eleven Juveniles

The five cases in December bring to 27 the number of defendants represented by ACLU volunteer attorneys in municipal court. Eleven juveniles were also provided counsel before all charges against them were dismissed.

Seventeen of the 27 have been found guilty of one or more charges, the prosecution securing pleas or guilty verdicts in 21 counts.

Seven defendants were completely exonerated in addition to the 11 juveniles released without charges being brought.

Four cases ended in hung juries and will be retried.

Charges Lodged

A total of 118 charges were lodged against the 27 defendants, the prosecution gaining guilty findings from juries in 15 counts. At the same time, juries have returned not guilty findings in 15 counts.

Seventy-five charges have been dismissed altogether.

The prosecution's 18 percent conviction rate is markedly below the normal 85 percent conviction rate recorded by prosecutors.

At least seven cases will be appealed.

Two for One

Contrary to the report in last month's *Open Forum*, Mrs. Barbara Freed was represented by volunteer attorney Howard Miller. Miller was assisted by Stanley Imerman in the Century City arrestee's case.

Death Penalty Transcript to Be Used in Supreme Court

Turned back in their first direct challenge to the constitutionality of the death penalty, ACLU of Southern California attorneys will seek to bring before the state Supreme Court the transcript of the unprecedented hearing in the case of convicted kidnapper-rapist Robert Emmett Thornton.

An exact date for an appearance has not been set, though A. L. Wirin, chief counsel for the Roger Baldwin Foundation of the ACLU, told the affiliate Board of Directors on Dec. 14 that the court might set a date for sometime this month.

The Thornton hearing, sought by Wirin and co-counsel Gerald Gottlieb, is believed to be the first of its kind in the nation. Ten expert witnesses presented sociological, penological, and religious arguments against the imposition of the death penalty.

Superior Court Judge Herbert V. Walker, who presided over Thornton's criminal trial, ruled on November 27 that the death penalty was constitutional. Specifically, he held that capital punishment does not violate the dignity of man; does not violate the standards of decency that mark the progress of a maturing society; is not cruel; and is not unusual.

Four days later he sentenced Thornton to death in San Quentin's gas chamber.

The Thornton case, because of the imposition of the death penalty, will automatically be reviewed by the state Supreme Court.

Special Calendar

That court has already indicated that it will hear a special calendar—the date was generally set for sometime in the Spring —to review a number of pending challenges to the death penalty in California.

In addition to the Thornton case—the transcript of which Wirin and Gottlieb hope to introduce as friends of the court in other cases—there is a major challenge to the death penalty originating in Northern California.

Sponsored by the ACLU of Northern California and the National Association for the Advancement of Colored People, that suit raised three procedural arguments against capital punishment.

Attorneys in that case argue that men on Death Row are denied their right of counsel because no provision is made for legal assistance after the state Supreme Court has denied *certiorari* (review) of appeals; that juries have no standards by which to determine whether to recommend life imprisonment or the death penalty after the guilty verdict has been rendered; and that the challenge for cause of

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War Policy Adopted

On Dec. 14, the Board of Directors of the Southern California affiliate of the ACLU adopted a policy statement on the Vietnam War. The statement, framed by a special committee of board members and attorneys, formalized the approval voted by the board at its November meeting of a general policy position dealing with the war in Southeast Asia.

War, whether declared or undeclared, inevitably carries with it a curtailment of civil liberties with which the ACLU is concerned.

The country is now involved in a major undeclared war in Vietnam.

The constitutional safeguard and requirement of a congressional declaration of war has been by-passed. Therefore, our involvement in this war is unconstitutional. Due process is violated when individuals are compelled to participate in a war unconstitutionally conducted.

The ACLU opposes this exercise by the Executive of power not delegated to it by the Constitution, and where appopriate, will raise this issue to protect the civil liberties of individuals.

Court Order, Police Aid Anti-War March

Torrance has had its first peace demonstration, a Dec. 18 march on the Dow Chemical Co., but not before ACLU cooperating counsel Darby Silverberg was forced to go to court.

Nine hundred marchers paraded within a mile of the napalm-manufacturing plant, closely guarded by 200 police and sheriff's officers.

Tense Atmosphere

Though ACLU observers reported that the atmosphere was tense, there was only one clash between the marchers and spectators. Four of the spectators, all members of the Bedouins Car Club, were arrested.

Three days after the march, the Southern California affiliate praised the actions of the Torrance Police Department. In a letter to Chief of Police Walter R. Koenig, ACLU Executive Director Eason Monroe noted that the "department deliberately extended itself not only to protect life and property, but the First Amendment rights of freedom of speech and assembly."

At the request of the South Bay Chapter, Silverberg filed suit on behalf of the parade sponsors, South Bay Vietnam Summer, to secure a License Review Board hearing provided for in city ordinances.

The council had earlier refused to schedule such a hearing —without which the permit would not be granted—and deliberately challenged the ACLU to take the matter into court.

Five of the councilmen followed the lead of Mayor Albert Isen despite the warning of Torrance City Attorney Stanley Remelmeyer that the majority was "digging its own grave."

According to Dave Polis, *South Bay Daily Breeze* staff writer, Remelmeyer "pleaded with the councilmen to follow his advice and hold a hearing on the parade permit request.

100 Percent

" 'The court will reverse your decision,' he said. 'It's 100 percent certain.' "

Remelmeyer was correct. On Nov. 27, Los Angeles Superior Court Judge Ralph Nutter ordered the city to show cause why a parade permit should not be issued.

Its bluff called, the city issued the parade permit with a series of restrictions and requirements, including a $500 license fee, which sent Silverberg back into court.

Nutter this time held that the requirements were reasonable. The sponsors paid the fee under protest, and accepted an optional date offered by the License Review Board.

Civil Liberties Issues to Be Raised in Legislature

"It would be difficult to overestimate the impact of campus demonstrations in Sacramento," the ACLU's legislative advocate, Coleman Blease, reported on the eve of the state Legislature's opening.

The impact, however, is not quite that which anti-draft, anti-Dow Chemical, and black nationalist militants had hoped for.

With an eye on June's primary and November's general election, legislators in both parties appear determined to propose punitive and remedial bills dealing with campus demonstrations.

According to Blease, whose eleven years as an ACLU lobbyist give him something of an insight into legislative thinking, "It's a lead-pipe cinch that there will be bills to bomb the hell out of higher education."

At least two gambits seem likely at this stage: cuts in the budget for the state colleges and university; and bills which would give municipal police forces specific jurisdiction over campus activities.

The first is not an ACLU concern; the second could be. Campus police tend to be more sympathetic to students than do local departments. Given the mutual hostility between "town and gown," bringing off-campus police onto campus routinely could produce even sharper clashes than have already occurred.

Election Year Politics

The usual election year politicking has been heightened in 1968. Both nationally and in California, Republicans scent Democratic weakness. In a bid to capture six normally Democratic seats in the Assembly, all six now considered by both parties to be wavering, the G.O.P. leadership is expected to press legislation in three crucial areas. Rollcall votes on these politically loaded bills could have legislators voting "bad," against the ACLU position; in a political campaign it is difficult to explain why you have voted against an obscenity bill which would purportedly protect children from the "smut peddlers."

All three of the crucial areas involve civil liberties questions: education, welfare, and crime.

Both welfare and crime are essentially issues finally resting on racial questions. The popular impression of welfare is one of Negro women giving birth to illegitimate children, meanwhile drawing down fat relief checks each month. As wrong as the impression is, it is still politically impressive; bills to trim the welfare rolls, one way or another, will surely be introduced. Others cutting benefits, or cutting off certain classes from benefits might be proposed.

The main burden of such bills will fall on two programs: aid for dependent children, and aid to the disabled. Neither class of recipients is organized—the blind and the aged are—neither class is in itself powerful enough to stop a legislative juggernaut.

At the same time, legislators alarmed about crime in the streets are also focusing on a race relations issue. Few have much concern over white collar crime or corporate violations of the law. Past performance to be trusted, they will seek punitive legislation to deal with some crimes of violence, will urge expanded police powers, but will give little attention to the root causes of crime.

Since crime in the streets is essentially crime in the streets of the ghettos—far more Negroes than whites are victimized by such criminals—this too will be a legislative reflection of white-Negro tensions in the country.

At least three other areas of legislative activity will pose civil rights and/or civil liberties questions. Once again, there will be attempts to repeal the state's embattled fair housing law. Beyond question, there will be a major obscenity bill, probably one which purportedly would control the sale of "obscene" books and magazines to those under 18. Lastly, there will be an attempt, probably by Assemblyman James Hayes (R.—Long Beach), to redraft the state's negative loyalty oath for public employees.

Narrowly Drawn Decision

That oath was struck down last month by the state Supreme Court in a narrowly drawn decision which left constitutional room for the Legislature to try again. Hayes has already indicated he would reintroduce a bill to prop up the oath, probably a bill much like that which died in committee during the last session.

In past sessions, bills like the Hayes loyalty oath measure had to be killed in the Assembly, usually in committee, for the upper chamber was ill-disposed to the ACLU position. This year there may be some hope in the state Senate.

The reapportionment of the state Senate two years ago was expected to make that body more partisan, less seniority-oriented. Though the Senate opened the 1967 session with a business-as-usual attitude, time in service more valued than party loyalty, towards the end of the session, the G.O.P. began to organize.

Their target was President *pro Tempore* Hugh Burns (D.—Fresno). Elected to office by a majority of all state senators, the president *pro tem* no longer has a firm majority. Republicans who before gave him their vote now have been told they should back a member of their own party.

As a result, Burns must turn, as he has not done before, to members of his own party. In exchange for their votes, he will have to give up something to the Democratic liberals whom he has shunned up to now. Senators like George Moscone (S.F.), Al Song (L.A.), Anthony Bielenson (L.A.), George Danielson (L.A.), Nicholas Petris (Oakland), and James Mills (San Diego) can be expected to fare far better legislatively than they have in the past. Their increased power could spell the difference between passing or killing bills inimicable to civil liberties.—E.C.

Former TV newsman Mark Davidson, left, fired by KHJ-TV because he refused to tailor his interview program to management's desire for higher ratings, joined with Los Angeles **Times** radio and television editor Hal Humphries, center; and Phil Kerby, associate editor of **The Nation,** in a wide-ranging attack on voluntary press censorship and news distortion. The Dec. 7 panel discussion was hosted by the Brentwood Chapter. When Davidson suggested protests to the FCC about news distortion, Humphries was less certain. "I don't know what it would take to get the FCC off the dime. I know they don't have much money, but they also don't have much guts," he told the audience of 150. (Photo by Fitzgerald Whitney)

San Diego Files Segregation Suit

Eight ACLU cooperating attorneys from San Diego filed suit on Dec. 5 to compel that city's Board of Education to take affirmative steps to eliminate de facto segregation in local schools.

The action was filed on behalf of five Caucasian, one Oriental, one Mexican-American and three Negro school children representing all students in the unified school district.

Token Effort

Charging that the school board has made only a token effort to comply with recommendations of a specially appointed committee studying racial segregation in the district, the suit seeks a permanent injunction or writ of mandate, or both, ordering the board to:

1) refrain from taking any action which would perpetuate racial segregation in the system;

2) require the district to take all reasonable steps to eliminate segregation; and

3) require the board to submit to the court an affirmative plan to desegregate the schools.

The suit charges that a disproportionate number of probationary and inexperienced teachers have been assigned to racially and economically segregated schools.

In addition, certain schools offer a wider range and a larger and richer variety of courses, "thus denying the students at some schools the opportunity of availing themselves of courses offered to others . . ."

Optional attendance areas, the suit charges, have permitted increased rather than decreased segregation because poorer families are unable to afford the costs of transportation willingly paid by the more affluent.

Board Vote

A week after the suit was filed, the board voted to fight the matter in the courts. A date for a hearing has not been set.

The eight attorneys signing the complaint were William F. Gavin, John W. Porter, Irwin Gostin, Louis Katz, Mrs. Mary E. Harvey, Peter Clarke, J. Perry Langford, and Luther A. Goodwin. All but Goodwin are members of the affiliate's San Diego Chapter.

Six Arrested after Police Relations Talk

ACLU volunteer attorneys will defend six people arrested after attending an address on "The Police and Their Relation to Youth in the Community" at Marshall High School on Nov. 16.

Lawrence Steinberg, Seymour Mandel and Leon Turret have agreed to take cases, Mrs. Caroline Anagnos, executive secretary of the Southern California ACLU, reported.

The six sought to attend the PTA-sponsored lecture—Los Angeles Chief of Police Thomas Reddin was scheduled to speak but sent a replacement instead—after the PTA newsletter urged readers to "bring your friends, neighbors, aunts, uncles, mothers, fathers, grandmothers, grandfathers, and—your worst enemy."

The open invitation by the PTA was tarnished by school administrators who stood at the door of the auditorium turning away young people whose dress did not meet the administration's idea of good grooming.

When members of the audience protested the screening at the door, the meeting grew heated.

It was adjourned from the auditorium to another room, and again school officials and a security guard screened those wishing to attend. Now they barred not only those with long hair or unusual dress, but also those who had earlier protested the screening.

Police were called and the six arrested on a variety of charges including interfering with a police officer, disruptive presence at a school, and disorderly conduct.

ACLU Essay Contest Reaches 300 Schools

Administrators and teachers at more than 300 high schools in Southern California have been urged to induce students to enter the ACLU's first area-wide Bill of Rights essay contest.

Meanwhile, the South Bay and Wilshire Chapters announced the winners in the local contests sponsored by the chapters.

Miss Laurie Falls of San Pedro High School was named winner of the South Bay Chapter's $100 first prize for an essay on "The Bill of Rights and the 'Turned-on Generation.' "

Los Angeles High School students Frank Bernberg and Kenneth Gipson won first place honors for their art and essay entries.

The local winners' entries will be forwarded to the area-wide competition.

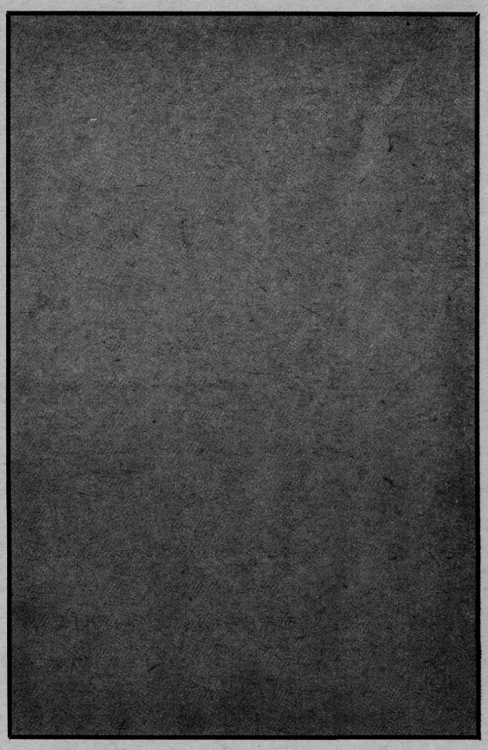
First prize in the Southern California contest is an award of $300 named after the late Loren Miller, Sr.

Miller was a lawyer, newspaper publisher and judge, nationally known for his early legal challenges to racial segregation.

A second prize of $200 has been contributed in memory of 13-year old David Vernon Bullough.

These will be supplemented by a third prize of $100, and seven honorable mentions worth $50 each, Miss Rosalie Goodwin and David Marcus, D.D.S., contest co-chairmen, said.

If donors wish, donations of contest awards may be made to the ACLU in honor of an individual, Marcus said.



Terry Kaplan

We have marched, we have cried, we have prayed, we have voted, we have petitioned, we have been good little boys and girls. We have gone out to Vietnam as doves and come back hawks. We have done every possible thing to make this white man recognize us as human beings. And he refuses.

He teaches us in school . . . about the American Revolution. George III was the king. The 13 American colonies were British territories. They were extensions of the mother country, there for the purposes of Britain. A colony provides raw materials and then markets for the mother country.

You all know what colonialism is. We know what it is in fact, in America, as black people.

You teach us that these colonies were not wrong when they spoke against George III and when Patrick Henry came out specifically against him and compared him to Caesar with his Brutus. Somebody said, "Treason!" And he said, "If this is treason, make the most of it."

Then I look at what you're trying to do to Rap Brown and Stokely Carmichael—calling it sedition and treason. And saying, if there isn't a law against them, there should be. Then you want to turn around and tell the world that these men couldn't speak like this if they didn't have freedom of speech . . . if they lived in Russia, what would happen to them. Yet, what you are saying, when you say a law should be passed against these men, is that Russia, in fact, has the right idea—and you'd better catch up with Russia and pass a law against these men so they cannot tell the truth.

Then there is a Freedom School in Tennessee which you want to say is teaching hatred because it tells black people that your ancestors brought us over on the Good Ship Jesus. You raped our women; you mutilated our men. You took away our dignity and our manhood. Any vestige of a culture, religion or language, you took away from us.

When Jim Crow made its appearance towards the end of the 19th Century, it may be speculated that it was the Negro male who was most humiliated thereby; the male was the more likely to use public facilities, which rapidly became segregated once the process began, and just as important, segregation, and the submissiveness it exacts, is surely more destructive to the male than to the female personality. Keeping the Negro "in his place" can be translated as keeping the Negro male in his place; the female was not a threat to anyone. Unquestionably, these events worked against the emergence of a strong father figure. The very essence of the male animal, from the bantam rooster to the four-star general, is to strut. Indeed, in 19th Century America, a particular type of exaggerated boastfulness became almost part of a national style. Not for the Negro male. The "sassy nigger" was lynched.—U.S. Department of Labor, The Negro Family, The Case for National Action **("The Moynihan Report")**

You can understand why Jews who were burned by the Nazi hate Germans, but you can't understand why black people who have been systematically murdered by the government and its agents—by private citizens, by the police department—you can't understand why they hate white people.

And you know what you want to do? And again we are learning all this in school, about how you reacted to the way people have done you—because in your background and history you have a revolution, of which you are very proud. You celebrate July 4th as Independence Day because you stood up against the British Empire and told them to go to hell. Your ancestors committed treason, and you celebrate it now; and you were not treated nearly as badly as black people in this country.

As Malcolm X said, we're catching more hell than Patrick Henry ever saw or thought of. Patrick Henry wouldn't have been able to take it. You can understand Patrick Henry and make a hero out of him to me in school; but then you're going to turn around and condemn us when we use peaceable methods like Father Groppi and other individuals, to get the rights that your Constitution promised us.

I didn't say being born or naturalized in this country was enough to make me a citizen. You said it. The Bill of Rights is yours. The civil rights bills are your bills. When the government itself violates the law, it brings the whole law into contempt.

Although poverty has been a contributing factor in this epidemic of urban riots, the fact remains that the great majority of poorer Americans have remained law-abiding citizens. There are other causes which the committee should examine. For instance, the nation's permissive attitude toward civil disobedience over the last decade. What can we except from the general public when some clergymen and some civil rights leaders flout state and federal laws with impunity? . . . In part, current disorders are also the product of past civil rights bills which held out the promise that people would be transported to heaven on the wings of federal laws. When laws were enacted and there came no heaven on earth, people became frustrated. Because civil disobedience succeeded before, it was natural for them to assume massive lawlessness might bring relief. Violence now is an ugly, pervasive national reality, and our duty is to find some way to stop it. This is the purpose of H.R. 421, the so called antiriot bill.—Sen. Sam Ervin, Jr. (D.–No. Car.)

A policeman is an object of contempt. A policeman is a paid and hired murderer. And you never find the policeman guilty of a crime, no matter what violence he commits against a black person. In Detroit, you were shooting "snipers." So you mounted a .50 caliber machine gun on a tank and shot into an apartment and killed a four-year-old "sniper." . . .

And you want to talk about "respect for the law." . . .

Now I want to draw a parallel between what happened at the so-called Boston Massacre on Boston Common and what we do now. Here was Captain Preston with a detachment of British soldiers. And they had a right to be there because this was a colony. But the colonists felt oppressed because Boston was being occupied by a "foreign" force. So some of the citizens got together.

They didn't just sing "We Shall Overcome." They didn't ask the soldiers: "Can we sit down here and pray to our God?" They got slabs of stone and snowballs and clubs and attacked the soldiers. When the soldiers fired into the crowd and killed seven people, the Americans called it a "massacre," and they say that was a great patriotic action by those people.

Yet black people doing ordinary, reasonable, peaceful things in this country are attacked by the police; and the police are praised for it. And you talk about giving the police more money and more power. You have got them walking arsenals now—pistols, guns, clubs, saps; some of them carry knives, cattle prods, the new tear gas canister, high-powered rifles. They will be giving them hand grenades next. They can call in tanks with .50 caliber machine guns—in the United States of America in 1967 . . .

They [white congressmen] fear black people more than they do the bubonic plague and other diseases that rats carry because they wouldn't appropriate $40 million to control rats. But you will appropriate all kinds of money to give the National Guard increased training in how to wipe us out. And it's a funny thing that in all these so-called "riots," the police and National Guard kill far more people than the so-called "rioters."

And as for the "sniping," don't you believe that. If all of you were sitting in this room, I could just shoot at random, and I would hit somebody. Why are no cops killed? They ought to be killed. I think the cops should be killed. I believe the National Guard should be fought like they are telling us we should fight in Vietnam.

When a man comes into my community and he is going to endanger the life of my wife and my children, he should die. And if it is within my power, I will kill him. We are tired of sitting around with white people saying we have to *die* for what we believe. We have been dying ever since we have been in this country for what you believe and what you have taught us . . .

Here is what you are going to give my child. I am going to send him to school and teach him to respect authority. So here is a cracker teacher standing in front of my child making him listen to "Little Black Sambo." See, that's the image the school gives him when he's young, to teach him his "place." A caricature, wearing outlandish clothing that even the animals in the forest don't want to wear. His name is "Sambo." His mother's name is "Mumbo." And his father's name is "Jumbo." What are you telling him about family ties in America? That child does not have the same last name as either one of his parents. Since his parents have different last names, they are not even married.

All right.

So he goes through the caricature like I did when I was a small child in grade school. And I don't forget these things. I wasn't born from the womb with the attitudes I have now. They were put in me by crackers. I sat through "Little Black Sambo." And since I was the only black face in the room, I became Little Black Sambo . . .

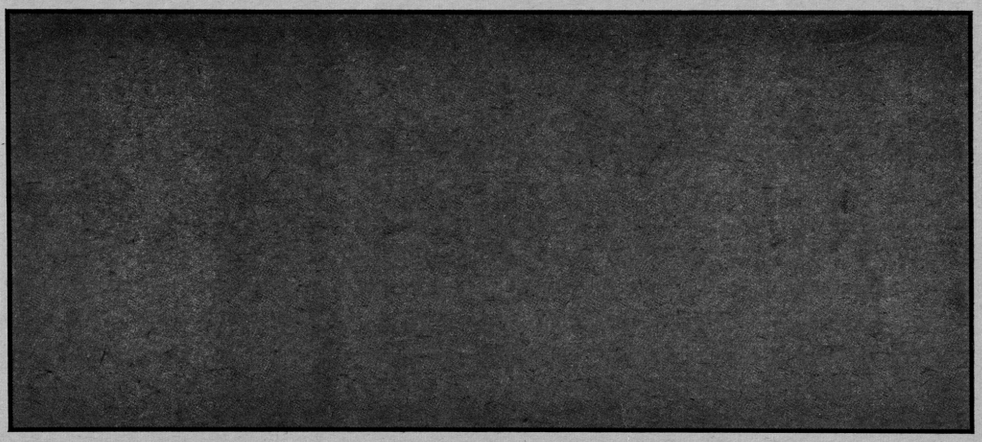
He gets a little older, so he can't be Little Black Sambo because he's too old for that. So you turn to good old Mark Twain, one of your great writers. And the black child grows from Little Black Sambo into Nigger Jim. And the white kids read this stuff and they laugh at the black child; and he's got to sit there and take it. He is required to attend these schools by law, and this is what he gets.

All right.

After he is Nigger Jim, he goes to high school and reads *Emperor Jones* written by Eugene O'Neill, who they are taught is a great playwright. And not only do they have to read it silently and master it, they've got to come to school and discuss orally about the "bush niggers." But still nothing about kikes. And nothing about dagos and spiks and wetbacks and bohunks and wops.

And then after he has passed through these degrading ages of the black man, and they have whipped the spirit out of him—after they have made him feel he's not fit to walk the earth and he always has to apologize to you for being here, then they crown him. They say, "I'm going to tell you what your grand-daddy had been; what you daddy had been; what you are going to be: Old Black Joe." And you know how Old Black Joe comes? With his head hanging low.

The damaging consequences of racially isolated schools extend beyond the academic performances and attitudes of Negro schoolchildren and the subsequent impairment of their ability to compete economically and occupationally with whites. Racial isolation in the schools also fosters attitudes and behavior that perpetuate isolation in other important areas of American life. Negro adults who attended racially isolated schools are more likely to have developed attitudes that alienate them from whites. White adults with similarly isolated backgrounds tend to resist desegregation in many areas—housing,



Ernie W. Chambers

An angry and militant Omaha barber in testimony before the President's Commission on Civil Disorders tells it

LIKE IT IS

jobs and schools. At the same time, attendance at racially isolated schools tends to reinforce the very attitudes that assign inferior status to Negroes. White adults who attended schools in racial isolation are more apt than other whites to regard Negro institutions as inferior and to resist measures designed to overcome discrimination against Negroes.—U.S. Commission on Civil Rights, Racial Isolation in the Public Schools

You tell us what you want to do to us and make of us. And this is the "educational process" which our children go through. And you wonder why they don't want to sit up in school . . .

And there is brutality in Omaha schools. A junior high school teacher . . . had beaten, kicked and cut little black children. We took these children with their parents to the mayor's office. He would take no action . . . And do you know the city attorney refused to accept the complaint and would not allow the parents to file charges against the teacher? All of the cracker agencies which are so interested in teaching us about law and order and decency and democracy and respect [ignored us] and not a bit of action was taken . . .

Why should we have to take each individual case of brutality and handle it personally like this? The school system is terrible. It's rotten. They have incompetent teachers. There is discrimination in the placement of teachers and pupils.

The school board just spent $5,000,000 to complete a white high school. An argument developed over whether they should put a planetarium in it; yet at Technical High, where most of the Negroes go, they can't even get blackboards. Again, I had to go personally to the Board of Education and tell them they had better put some blackboards in there or some of the other schools that have them are not going to have them. But Tech is going to have everything it needs.

Then the blackboards found their way there.

Some textbooks that my little boy didn't have in his classroom this semester came there only after I made a personal visit to Lothrop School where he attends.

And there was water leaking through the roof, buckets all over—and I have pictures of it with me—water runnning through the light fixtures; dripping in the cafeteria onto the table where sandwiches were being made. Then when I went over to Lothrop School where all this was happening, the principal, instead of wanting to correct this, wanted to know "why in the hell" they didn't come to get him and let him know I was there . . .

You know why I don't mind telling you this stuff? Because you put us in jail for nothing. This man told you what trivial and pretended causes you use to put black people in jail.

If I go to jail, it's going to be for something; not like the last time about a year ago when I was standing on the step of the barber shop where I work. I looked at a cracker cop and went to jail for "interfering with an officer" and "disturbing the peace." I have a transcript of the trial with me because you don't like to believe what we tell you.

Then you want us to respect the police. "Help your police fight crime." To do that, we would have to fight the police because they, with Congress, are the greatest perpetrators of crime in this country.

You know what the police are mad about, relative to Supreme Court decisions? They're upset because the Court says they have to respect the Fourth Amendment to the Constitution and other constitutional guarantees of the people's freedom in a so-called democratic society.

We are being forced, by police misconduct, to get together to fight the police. You know when I'll believe the saying "We Shall Overcome" is an effective way to fight the police? When I see you send your marines, your airmen and your infantrymen into Vietnam led by the Mormon Tabernacle Choir—then making a landing on the beach singing "We Shall Overcome" and fighting them with prayer books.

You know that kind of action is not going to work over there. It hasn't worked anywhere. It won't work here. We are going to fight you people like you fight us.

And don't say I'm revealing too much, because if something happens to me there are other people who will come up. They killed Malcolm X and produced Stokely and Rap. You kill Rap; he will multiply. You kill Stokely; he will multiply.

Now you don't know me; so maybe you don't want to kill me. You might just want me in jail. But you get me off the scene, and I'll multiply, because each time you handle one of us in this way, you show what you are. And you show the way you have to be dealt with . . .

A certain climate is requisite to a community before violence can occur. Our community, therefore, had such a climate. It did not transcend overnight from dignified and intelligent negotiations to breaking windows and setting fires. Like many other cities we first experienced the sit-in, the stand-in, lie-in and freedom marching. Petitions were circulated, committees became organized and expressions of discontent took as many different forms as there arose new organizations with different ideas. Certainly no record could include all the protests which have occurred in the city of Cincinnati in the past decade. Thus, and in pattern, the period of riot from June 12th through June 19th, 1967, has added a rebellious and regrettable chapter to the journal of social protest—a path of violence. —"Report on Riot in Cincinnati, Ohio, by Police Chief Jacob Schott"

There is discrimination in housing in Omaha. The mayor likes to say a Negro can purchase property wherever he can afford to, anywhere he wants to . . . On the one hand, he talks about Negroes being able to buy a house anywhere he chooses in the city; then he goes to the Nebraska Legislature to support an open housing law. Why is this necessary if we can buy anywhere we want to? By the way, before the Legislature killed open housing, they authorized the governor to use $500,000 to put down "riots," as they call them in our area.

We can't buy a house.

They refused to pass legislation necessary to help relieve these tensions, but they will pass—they will authorize this man $500,000. And he made some threats about his little 1800-man National Guard—how they are going to come into our community and do something to us.

When they come, something is going to be waiting for them. And it's not singing "We Shall Overcome." And it's not playing these little footsy games we have been playing all these years. . . .

We have exhausted every means of getting redress, and it has not come. The police murdered a black boy named Eugene Nesbitt a year ago. He was against a fence. A cop . . . came up behind him, and from a distance of about nine feet, shot him in the back with a shotgun. Before the boy's body was cold, the safety director came out with a public statement and said the shooting was "regrettable" but "justified."

There was no inquest. There was no autopsy. The cop was not relieved of duty, pending an investigation.

Nothing . . .

One thing more. We have a mayor who is being consulted by Mr. Robert Weaver, secretary of HUD, on a lot of things because this mayor talked in behalf of some legislation Mr. Weaver wanted in housing and urban development.

Now, this mayor is on the board of directors of what is known as Good Neighbor Homes. There is a Negro church with an Uncle Tom, chicken-eatin' preacher for the pastor, who is fronting for the mayor's corporation; they are the sponsoring agency. Yet the mayor is on the board of directors. The mayor's personal lawyer, Shafton, represents this group; and he is making that federal money which is put up for lawyer's fees. It is 221 (d) (3) housing. And this project was built in an area that is already overcrowded. And it is supposed to be for low-income people. Yet the rent starts at $115 a month. That is one of the mayor's interests . . .

Out of our experience with the Executive Order and the administering agencies the AFSC has come to some understanding of the handling of equal housing opportunities problems . . . The failure of the Department of Housing and Urban Development (HUD), the Federal Housing Administration (FHA) and the Veterans Administration (VA) to assume an affirmative role in pursuit of the goals of Executive Order 11063 has resulted in continued, widespread discrimination in the sale of new houses constructed with federal assistance.—American Friends Service Committee, "A Report to the President . . . on Equal Opportunity in Housing"

We are late. If you read the admissions of the City of Omaha's application [for federal funding], you'll wonder why we Uncle Tom, handkerchief-head Negroes in Omaha haven't burned that city to the ground. This includes city hall and everything else.

They admit that they don't give us the social services. We don't get the welfare attention. The buses don't give adequate service. The city itself doesn't clean the streets. There is inadequate garbage disposal. The police are poorly trained. They have bad, anti-Negro attitudes. All of this is presented. And you know why he did it? Because of the promise of the possibilities of getting some federal dollars. This made him admit crimes and flaws and shortcomings in the city which other considerations of morality never could.

We have been trying to bring these things to their attention for years, but they wouldn't acknowledge anything before. Then the federal government said, "If you can show you have the imagination and you understand the causes of problems of the core cities, you can get some money." The mayor laid it all out, and there it is. And this is what I come from in Omaha, Nebraska.

You had better be glad—you see, some people there call me "militant." How can you call me "militant" when, in view of all these things I have mentioned to you, I haven't started a riot? I haven't burned a building. I haven't killed a cop.

You are looking at somebody who is more rational than any of you—or some of you—because some of you support the war in Vietnam, but you wouldn't support us if we burned down Omaha.

Despite the new tactics and added personnel, the area was not under control at any time on Friday night, as major calls of looting, burning, and shooting were reported every two to three minutes. On throughout the morning hours of Saturday and during the long day, the crowds of looters and patterns of burning spread out and increased still further until it became necessary to impose a curfew on the 46.5 square-mile area on Saturday.—"Report by the Governor's Commission on the Los Angeles Riots"

Dennis Renault, Open Forum

"Send these, the dissident, deferred trouble-makers to me . . ."

Editorial

On a Good Week

It was a good week. An atheist was granted her citizenship, a loyalty oath finally toppled, two leafleteers freed of their convictions, a peace demonstrator exonerated.

Thirteen thousand members of the ACLU of Southern California who made it possible can take some satisfaction from these gains. Their contributions, both of volunteered time and money, in a very real sense made these victories possible.

Still, the death penalty stands. The loyalty oath could be revised in the state Legislature. Conscientious objectors who cannot claim a religious basis for their beliefs are not yet on firm legal ground. Unpopular demonstrators are still arrested.

We run just to keep up, with time enough for a sigh of accomplishment before taking another deep breath and plunging back in, trusting that the contributions of money and time will continue. If those contributions stop or slow, so does the ACLU.

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Commentary

On the Deeds of Small Men

On behalf of four members of the Academic Freedom Committee of the Academic Senate, University of Califronia, Los Angeles, Phalen G. Hurewitz submitted a friend of the court brief in support of the ACLU's successful challenge to the state's loyalty oath for public employees. In this edited extract from that brief, Hurewitz argues that negative or disclaimed oaths "exert a decidedly subversive influence on academic freedom." Legal citations have been omitted.

A Grave Impact on Academic Freedom

The oath . . . is merely a gesture, a ritual, signifying, perhaps, the state's repugnance to subversion. Since it consists in part of a disavowal of specified beliefs, doctrines and associations past and present, it is an instrument of compulsory disclosure.

But it seems difficult to conceive that the oath is designed either to foster loyalty or to unearth real disloyalty. Indeed, in a recent time of crisis, the genuine testing ground for efficacy, loyalty oaths were jettisoned. We refer to the recent history of the incarceration of American citizens of Japanese descent during World War II which discloses that the use of a loyalty oath to establish loyalty was summarily rejected by the military authorities and not employed until after an extensive period of incarceration.

No showing has been advanced that the ranks of state service have been swelled by a tangible number of subversives, requiring such "loyalty" measures. Further, even if such a showing were made there are no reasons or evidence to suggest that the use of loyalty oaths has been an effective method of detecting subversion . . .

Indeed, reason suggests that a subversive is unlikely to refuse the protective cover that the loyalty oath affords. ("Men who are ready to start a bloody revolution will not boggle at false swearing," [wrote Chafee in] *The Blessings of Liberty*.) . . .

An Instrument of Compulsory Disclosure

With respect to the standards to be applied to scholars, no loyalty oath can define precisely and comprehensively in terms of concrete acts what constitutes violations of the scholar's obligations of intellectual integrity and objectivity. Those standards cannot be reduced to any such disclaimer-type formula. Their only viable application can be on the campus in the classroom or at such other place and in such form as scholastic activities are pursued.

The wholesale approach of a test oath, while it probably has negligible value in ferreting out revolutionaries, does have a grave impact on academic freedom. Ideas are the stock in trade of scholars. The test oath represents censorship of ideas, a limitation on "the flow of ideas into the minds of men," [as Justice Black said in dissent], and punishes for belief alone. . . .

As Justice Jackson stated, in dissent . . ., "Only in the darkest periods of human history has any Western government concerned itself with mere belief, however eccentric or mischievous, when it has not matured into overt action." Even revolutionary thoughts may sometimes be justified, he added, for "we cannot ignore the fact that our own government originated in revolution and is legitimate only if overthrow by force may sometimes be justified. . . ."

The history of test oaths ("implacable foes of free thought") bears witness to the reality of the observation that test oaths are incompatible with the exercise of academic freedom. Their history is one of increasing expansion, enlargement and elaboration, from a general expression of allegiance to more pervasive and exacting requirements to sweeping disclaimers until they become instruments of terror and repression, used against all those who oppose the faction in power. (Thus, Sir Thomas More was executed by Henry VIII for refusing to take an oath swearing allegiance to Henry as sovereign of the Church.)

From the perspective of educational theory, the test oath repudiates the philosophy that the main goal of education is to produce critical and creative minds unshackled by notions of orthodoxy; instead it advocates the view that education is only a means of inculcating a set of approved and acceptable beliefs and opinions.

This notion certainly has its advocates, chief among whom are the exponents of Communist theory, with its doctrinaire reliance on authority and orthodoxy—on the official belief, the official view, and the official fear of dissent and criticism.

As [Henry] Commager put it, the difficulty with the test oath is that "it represents an uncritical acceptance of America as it is—the political institutions, social relationships, and economic practices. It abandons evolution, repudiates the once-popular concept of progress, and regards America as a finished product, perfect and complete."

Inferences Drawn in a Vacuum

The test oath casts a long shadow over the boundary line between vigorous dissent and "subversion." It rests upon the proposition that dissent and cultural diversity are no longer broadly tolerated; that loyalty and patriotism are the result of blind indoctrination. But . . . academic freedom does not admit of prescribed or proscribed thoughts. The single test against which ideas must stand is their justification in reason and the facts. It is from the exposure to diverse ideas that a critical citizenry is formed, a citizenry that demands institutions in pace with its social and intellectual experience and which directs its loyalty and patriotism to those institutions and to the country in which they develop. It seems unlikely that it is possible to compel loyalty by the use of an oath—rather, only orthodoxy and obedience may be compelled . . . .

The oath is incompatible with academic freedom for another reason. It draws inferences in a vacuum, where no basis in fact exists to support such inferences. It infers disloyalty without any evidence of that fact and requires a disavowal or disclaimer to overcome the inference. Not only is that approach incompatible with the methods utilized in the advancement of knowledge, but it has a restraining effect on the search for ideas. . . .

The oath violates another fundamental tenet of academic inquiry: it illogically assumes that association is tantamount to causation or guilt, an assumption which flies in the face of historical experience, is without support in law, and is based on the notion which we submit to be erroneous, that one mistaken idea subverts all sound ideas.

The grave consequences of the oath on academic freedom are several. For the scholar who refuses, there is the risk of a charge of disloyalty which could well affect his reputation and advanced academic opportunities if not his livelihood, his financial standing and social position. Of those scholars or prospective graduate students who have the choice to make, some seek positions in private institutions or other states.

If the conscientious objector overcomes his constraint and signs the oath, the effect is less obvious perhaps but of greater importance, for he has signed it at the expense of abandoning his convictions and sacrificing his dignity. Since most cases of the conscientious objector are almost certainly never aired or litigated, the restriction on academic freedom cannot be measured in terms of known instances.

A new element—not susceptible of measurement perhaps, but nonetheless certain in effect—is introduced into the academic atmosphere: the element of fear. As Alexander Hamilton reflected, "A power over a man's subsistence amounts to a power over his will. . . ."

Scholars, fearful of indiscretion or misguided enthusiasms, join only safe associations or shrink from associations altogether. They restrict legitimate activities and contacts. They avoid controversial subjects, controversial reference works. The political scientist or economist refrains from expressing any view that could be construed as approval of any socialist institution or policy. In short, a "pall of orthodoxy" descends upon the classroom, antiethical to the very fiber of academic freedom.

For the foregoing reasons the Levering Oath is incompatible with the exercise of academic freedom. In the confrontation which occurs the loser is not only the scholar, the student and the university, but most important, it is the free society.

John Stuart Mill wrote in 1819: "A state which dwarfs its men in order that they may be more docile instruments in its hands—even for beneficial purposes—will find that with small men no great thing can really be accomplished."

In January...

Beverly Hills—Westwood Chapter

Executive Director Eason Monroe, and A. L. Wirin, chief counsel of the Roger Baldwin Foundation of the ACLU, will review the program, problems and the direction of the affiliate at the Beverly Hills—Westwood Chapter's Wednesday, January 17 meeting.

The meeting will be held at Temple Isaiah, 10345 W. Pico Blvd., beginning at 8 p.m., program chairman Ben Spezell said.

Canyon Chapter

George Slaff, president of the Board of Directors of the ACLU of Southern California, will be the guest speaker at the second general meeting of the newly organized Canyon Chapter Thursday, January 18.

Slaff will speak on the role of the ACLU in contemporary affairs, and the implications of its legal and educational activities.

The meeting, scheduled to begin at 8:15 p.m., will be held in the home of Mr. and Mrs. Perry Neuschatz, 2840 Seattle Drive, Los Angeles 90046.

Hollywood Chapter

David Bogan, Chief of the Juvenile Division of the County of Los Angeles Probation Department; and psychoanalyst Lester Fuchs will join an as-yet unnamed ACLU cooperating attorney to discuss "Youth and the Courts" at the Hollywood Chapter's Friday, January 12 meeting.

The meeting will be held beginning at 8 p.m. at Vine Street School, 955 N. Vine, Bob Cutler, chapter publicity chairman, announced.

Orange County Chapter

The steering committee of the Orange County Chapter will meet Tuesday, January 9, at the home of newly elected chapter chairman S. Slavin. All ACLU members are invited, recording secretary C. F. Burnap said.

South Bay Chapter

The South Bay Chapter will hold a business meeting on Wednesday, January 10, at the Whitney residence, 3001 Strand, Hermosa Beach. The meeting will begin at 8 p.m., chapter president and newly-elected affiliate board member Carl Pearlston announced.

Westside Chapter

Taking advantage of an offer extended by Deputy Chief of Police James Fisk, the Westside Chapter will make two tours of the Los Angeles Police Department's headquarters on Jan. 23 and 30.

The tours will be followed by dinner at Little Joe's Restaurant and remarks by former police officer Michael Hannon. For reservations—the dinner is priced at $3.50—members and friends must call the Westside Malpractice Office, 399-2937, chapter publicity chairman James Biltchik warned.

Wilshire Chapter

Assemblyman David Roberti (D.—Los Angeles); William K. Shearer, state chairman for George Wallace's American Independent Party; Oliver Moench, a Republican Party volunteer; and Michael Hannon, a leader in the Peace and Freedom Party, will discuss "The Third Party: The Right to Dissent at the Polls" at the Friday, January 26 meeting of the Wilshire Chapter.

ACLU volunteer counsel Darby Silverberg will moderate the panel discussion.

The meeting will be held at Wilshire Crest School, 5241 Olympic Blvd., beginning at 8:30 p.m.

Mr. and Mrs. Herbert Seal flank their son Bert prior to the Dec. 14 meeting of the South Bay Chapter at which they were presented with the chapter's fifth annual Courage of Convictions Award. The Seals were named for their willingness to support the youth's refusal to cut his hair in a fashion acceptable to local school officals. The ACLU has filed suit on the boy's behalf, seeking his readmittance to school.

Ten Incumbents, Five New Members Elected To Board

Ten incumbents and five new members were elected to the Board of Directors of the ACLU of Southern California at the annual meeting of the affiliate.

David Binder, Phil Chronis, Herbert Livingston, Carl Pearlston and Richard Petherbridge were elected for the first time.

They join incumbents Kurt Bergel, Harry J. Carroll, Mrs. LaRee Caughey, Paul Ferguson, Harvey Furgatch, Irving Lichtenstein, M.D., Everett Moore, Alan Sieroty, and Mel Sloan on the 42-man board.

The 42 regular board members serving three-year terms will be joined for the first time this month by voting representatives from 25 of the affiliate's active chapters.

All those elected will serve three year terms with the exception of Pearlston who will fill out the two years remaining in the term of resigned board member Tony Geram.

In length of service, Assemblyman Alan Sieroty, former vice-president of the affiliate; and psychiatrist-psychoanalyst Isidore Ziferstein have been on the board the longest. Both were elected for their fourth three-year term.

Mrs. Caughey, chairman of the affiliate's Education Committee, has served two terms, as has co-treasurer Irving Lichtenstein.

The elections marked a new recognition by the affiliate's governing body of the increased importance of the chapter program. Five of those elected—Bergel, Carroll, Furgatch, Livingston and Pearlston—have been closely identified with local chapters.

Suit Seeks Equal Housing for Yachts

Volunteer attorney Jane R. Brady has filed a friend of the court brief on behalf of Robert T. Rubin, expelled from the South Coast Corinthian Yacht Club after he sponsored a Negro for membership.

Rubin filed suit for an injunction barring his expulsion last November in Los Angeles Superior Court.

Mrs. Brady's *amicus curiae* brief arges that the yacht club's by-laws are void on their face. Admission to membership and expulsion are vested in the club's Board of Directors who vote by secret ballot and have absolute discretion.

The club, however, is built upon land at the Marina Del Ray Small Craft Harbor, built with federal, state and county funds, and operated by the county as a recreational center.

No Standards

Two members of the club's Board of Directors can blackball an applicant, the brief noted.

There are no firm standards for membership in the club's by-laws, the brief notes. As a result, resolution of whether Rubin's expulsion was, in fact, a retaliation because he sponsored the Negro for membership in June, 1967, is not necessary.

That lack of standards denies equal protection to applicants and members who might, like Rubin, challenge board actions in court.

Though ostensibly a "private club," the organization leases land from the county, and uses a recreational facility built entirely with tax money. It thus loses its entirely private character and must meet constitutional standards imposed on publicly-owned agencies.

Riverside Chapter to Probe Jury Selection

The Riverside Chapter of the Southern California affiliate has invited the local branch of the NAACP and the Riverside Committee for Justice to join the chapter in a study of the selection and composition of juries in that county.

The invitation was extended Dec. 11 by Harry Bach, president of the local group.

The joint committee was proposed after three attorneys complained that juries in Riverside county do not represent a cross-section of the population.

Instead, the attorneys asserted, juries were made up of conviction-minded "professionals," older people who are trying to supplement their meager incomes by volunteering for jury duty.

These "professionals" are too often convinced that if a defendant is in the box there must be a good reason for it, otherwise he wouldn't be there, the attorneys complained.

One of the lawyers reported that one such "professional" had served on 20 juries in one year.

The joint committee, Bach said, will investigate the complaints, and if necessary, make recommendations which would broaden jury composition.

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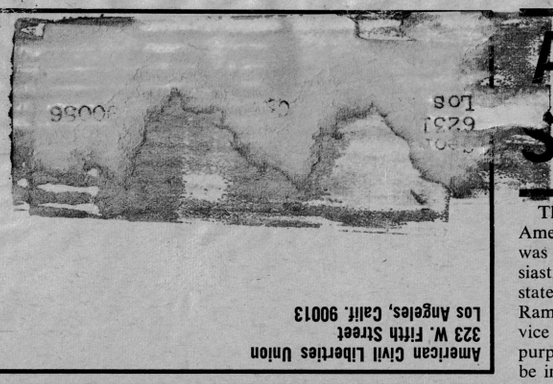
Affiliate Converts Mailing, Billing to Computer

In a move to forestall enlarging its clerical staff, the Southern California affiliate of the ACLU is converting its billing and mailing list to a data processing system.

Membership projections indicate that the affiliate would be required to hire two full-time employees to handle increased membership rolls, Eason Monroe, executive director of the ACLU, said.

Conversion to the data processing system, made possible by the reduced service rate offered by a local firm, will allow as much as a 50 percent increase in affiliate membership without adding significantly to the clerical staff required to process those memberships.

Additionally, the data processing system will speed delivery of *Open Forum*. The newspaper has been delayed in the past as much as a week because mailing houses were not equipped to automatically handle mailing labels printed in the office. Beginning with this issue, *Open Forum* will be labelled by machine.



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ACLU Rips Clark-Hershey Statement "Clarifying" Draft

The national office of the American Civil Liberties Union was something less than enthusiastic about the Dec. 9th joint statement of Attorney General Ramsey Clark and Selective Service Director Lewis B. Hershey purporting to clarify penalties to be imposed on draft and anti-war protestors.

In a press release dated Dec. 13, ACLU Legal Director Melvin L. Wulf pointed out, "Even though the statement is drawn in more measured language than the statement issued by General Hershey on Oct. 26, its message is essentially the same:

Vague Language

"Those who violate the selective service law and regulations —no matter how vague their language or arbitrary their purpose—will be subject both to reclassification and/or prosecution."

General Hershey's Oct. 26 statement to 4100 local draft boards—reportedly released with the approval of the White House —raised a storm of controversy on and off of Capitol Hill.

In the house, California Representative John Moss (D.—Sacramento) threatened to call Hershey before his subcommittee on Government Information. Moss had demanded that Hershey explain the legal basis for the statement but had received no reply.

Defending Hershey, Rep. L. Mendel Rivers (D.—So. Car.), chairman of the House Armed Services Committee, backed Hershey's assertion that reclassification of draft protestors was not punishment. Drafting protestors, Rivers told his colleagues, is "the best thing General Hershey could do for these buzzards."

Sharply Critical

In the Senate, Michigan Senator Philip Hart and Massachusetts' Edward Kennedy were sharply critical of Hershey.

Hershey's Oct. 26 recommendation, Hart said, substituted military service for existing statutory penalties which deal with law-breaking protestors.

Hart also inserted in the *Congressional Record* of Nov. 21 the text of a letter from a Tulsa, Oklahoma, draft board to one reclassified protector. The local board told John Ratliff that he was classified 1-A because the board "did not feel that your activity as a member of SDS [Students for a Democratic Society] is to the best interest of the U.S. Government."

Ratliff is one of 28 draft protestors involved as plaintiffs in six suits filed by the ACLU to challenge the Oct. 26 order. Three of the plaintiffs—two in Seattle, Wash., and one in Camden, N.J.—were reinstated with deferments after their suits were launched, the local boards unwilling to stand legal challenge.

Angry Legislators

The December 9 joint statement by Hershey and Clark was apparently an attempt to soothe angry legislators, news commentators asserted. It is believed to have been issued with full White House approval also.

According to Wulf, "The declaration in the joint statement that 'lawful protest activities' will not result in penalties is no different than General Hershey's earlier statement that only 'illegal' demonstrations would be the basis for reclassification and prosecution.

Local Boards

"The fact remains," Wulf continued, "that local boards, under the influence of General Hershey's October 26 memorandum and the more recent joint statement, are invited to pass judgment on the 'legality' of conduct under the First Amendment and, if they conclude that given conduct is 'illegal,' to reclassify the participants 1-A and to report them to the United States attorney for prosecution."

Hinting at future legal action, Wulf concluded, "Because the draft is itself the object of widespread protest, those who oppose it or the war will inevitably be caught in a self-executing trap designed to silence opposition to the draft by turning the opponents either into soldiers or prisoners. The First Amendment will not tolerate such a limited number of options."

Three Students Request Legal Aid

ACLU of Southern California attorneys will represent three of 16 Cal State at Los Angeles students and faculty members who surrendered on warrants obtained by the Los Angeles city attorney's office as a result of a campus demonstration December 6.

Cherry Neely, Miss Catherine Elaine Miller and Roger Herrick sought ACLU counsel to defend them against criminal charges. The three allegedly participated in a demonstration against Dow Chemical Co. recruiters.

They were represented at their arraignment by cooperating counsel Leon Goldin, who also appeared on their behalf at a hearing on campus which could lead to the trio's expulsion.

Hearing Postponed

The hearing was postponed on December 15, as Goldin recommended, pending the conclusion of the criminal trials. Goldin argued that a defense during an administrative hearing would require them to make statements which might be used against them in the concurrent criminal trials.

ACLU participation in the case came after a special committee of the Board of Directors chaired by Mel Sloan approved a policy statement condemning the hasty adoption by the trustees of the state colleges of severe sanctions against demonstrators.

Pointing out there were already sufficient statutes to punish lawbreakers and control unlawful campus demonstrations, the statement asserted, "The action of a few lawbreakers must not be used as an excuse to promulgate new policies which, no matter how well intentioned, tend to suppress legitimate protest and to circumvent due process.

School Campuses

"The rights guaranteed by the First Amendment," the statement concluded, "must be nurtured, protected and preserved everywhere, but nowhere more passionately than on our school campuses."

In the wake of demonstrations on the San Francisco campus of the state college system, the trustees adopted emergency regulations which provide for the suspension or expulsion of student and faculty members deemed to have participated in an unlawful demonstration.

Long Beach Police, ACLU Avert Clash

Cooperation between the Long Beach Police Department and the Southern California affiliate's Long Beach Chapter may have averted a clash between supporters and critics of George Wallace at a political rally in that city on Nov. 4, 1967.

Pre-rally talks between the chapter's Mel Meeks and Lt. Ray Henry of the department's Intelligence Section led to the police taking measures to protect a demonstration against Wallace in front of the civic auditorium.

Separating Barriers

At Meeks' request, the demonstrators marched behind barriers separating them from those entering the auditorium while police looked on.

As the crowd filed into the auditorium, Meeks learned that Wallace supporters, apparently under orders from William K. Shearer, Wallace's California-based campaign advisor, were barring would be members of the audience.

"The vigilantee line," according to Meeks, "was not admitting anyone with long hair, beards, wild clothes, or peace buttons."

Meeks was informed that the line had orders "to prevent any disturbances by keeping out anyone who might be unfriendly."

Potential Trouble

The screening of "potential trouble-makers" was so thorough that Sgt. Charles Ussery, a plainclothes member of the Intelligence Section, had to identify himself before he was admited to the auditorium. Though he was wearing a suit and tie, the sergeant was apparently considered a potential troublemaker; he is a Negro.

The screening would have been permissable but for the fact that the Wallace campaign had taken newspaper advertisements inviting anyone to attend.

Once again Lt. Henry solved the problem, convincing the Wallace staff to allow everyone into he auditorium.

Clashes between Wallace supporters and demonstrators were minimal for the rest of the evening.

According to Meeks, "By and large, the Long Beach Police Department did a good job, and Lt. Henry was excellent.

"When all police officers have the same high standards of ethics displayed by Lt. Henry, the ACLU can go out of the police malpractice complaint business.

Spanish Language Voting Bar Upheld

A Los Angeles Superior Court judge has upheld the state Constitution's bar against voting by people literate only in Spanish.

The Dec. 14 decision of Judge Ralph Nutter turned back the challenge of Mrs. Genoveva Castro and Jesus E. Parra in a suit brought by California Rural Legal Assistance.

The ACLU of Southern California had joined in the attack on the requirement that voters be literate in English.

The suit contended that those literate in Spanish, like Mrs. Castro and Parra, had from Spanish-language periodicals, television and radio programs sufficient information with which to cast informed ballots.

Awesome Act

Holding that the state had the right to set literacy standards for voting, Judge Nutter was quoted by the Los Angeles *Times* as saying, "It would be an awesome act for this court to declare invalid a constitutional provision which has been in effect for more than 70 years."

He turned aside contentions by CRLA attorneys that the United States Supreme Court and the Congress had made it possible for those literate in Spanish to vote.

Both Mrs. Castro and Parra were born in the United States, but were educated in Mexico. As American citizens, they qualified in all ways, but failed to meet the literacy test imposed by deputy registrars if there is any question about the person's ability to read English.

Unruh Act Seminar Set

Long Beach attorney Myron Blumberg will conduct a study seminar on "Utilization of the Unruh Civil Rights Act" Wednesday, Jan. 3 at 4034 Buckingham Road, Los Angeles.

The special seminar, being conducted at the request of the Metropolitan Fair Housing Center of the Community Relations Council, is planned to survey the legal problems involved in use of the Unruh Act, and the right to substantial damages when discrimination has been proved.

Death Appeal

(Continued from Page 2)

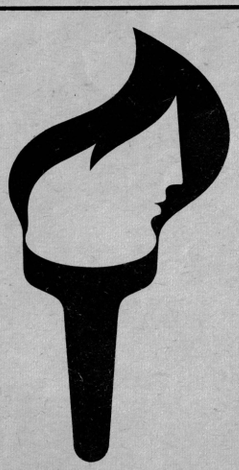
jurors in the criminal phase of the trial of necessity weights the jury in favor of the death penalty, and denies him a jury of his peers.

Criminal trials involving the death penalty are two-phased in California, the same jury deciding the guilt or innocence, then, after hearing further testimony concerning the defendant's character, whether he is to be executed.

Judges may reduce a jury's recommendation of death to life imprisonment, but may not sentence a man to death without the jury's concurrence.

Costs in the Thornton hearing, Wirin told the affiliate board, totalled $2500. Even before appeals are filed, he said, the case has "perhaps cost us more than any other case except Proposition 14."

Because of the unusual costs of the capital punishment case, the ACLU has set up a special fund to defray expenses. Contributions should be mailed to the Southern California affiliate.



This symbol, which decorates stationery and literature, news releases and renewal notices, was designed by Robert Overby, Chouinard Art Institute instructor and free-lance designer. Overby, who donated his design to the Southern California ACLU at the request of artist Gene Holtan, properly should have been credited as at least offering the basis for the design of the cover of the special supplement of **Open Forum** published last month. That supplement will also be included in 1968 renewal notices to be mailed later this month.